



Focus

WASHINGTON'S COASTAL ZONE MANAGEMENT PROGRAM FEDERAL CONSISTENCY

The Washington Coastal Zone Management Program

Congress passed the Federal Coastal Zone Management Act in 1972 to encourage the appropriate development and protection of the nation's coastal and shoreline resources. The Coastal Zone Management Act gives states the primary role in managing these areas. To assume this role, the state prepares a Coastal Zone Management Program (CZMP) document that describes the State's coastal resources and how these resources are managed. Washington was the first state to receive federal approval of a Coastal Program in 1976. The Department of Ecology's Shorelands and Environmental Assistance Program is responsible for implementing Washington's Program.

Applicability of the Program

Washington's Coastal Program defines the State's coastal zone to include the 15 counties with marine shorelines: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom counties. The Coastal Program applies to activities within the 15 counties as well as activities outside these counties, which may impact Washington's coastal resources. Most, but not all, activities and development outside the coastal zone are presumed to NOT impact coastal resources.

Federal Consistency

Under Washington's Coastal Program, activities that affect any land use, water use or natural resource of the coastal zone must comply with six laws identified in the Coastal Program document. Those laws are called "enforceable policies". The six laws are:

- ❖ the Shoreline Management Act (*including local government shoreline master programs*)
- ❖ the State Environmental Policy Act (SEPA)
- ❖ the Clean Water Act
- ❖ the Clean Air Act
- ❖ the Energy Facility Site Evaluation Council (EFSEC)
- ❖ the Ocean Resource Management Act (ORMA)

Activities and development affecting coastal resources which involve the federal government evaluate compliance through a process called "federal consistency." This process allows the public, local governments, Tribes, and state agencies an opportunity to influence federal actions likely to affect Washington's coastal resources or uses. There are three categories of activities which trigger a federal consistency review: 1) activities undertaken by a federal agency, 2) activities which require federal approval, and 3) activities which use federal funding. If a project falls into one of these categories AND is either in the coastal zone or it impacts coastal resources, then the federal consistency process is triggered. Each of the categories has different federal consistency requirements; therefore each category is discussed separately below.

Activities Undertaken by a Federal Agency

A federal activity is any development or function performed by or for a federal agency. Examples include constructing nearshore facilities for federal government use such as a navy base and dredging new federally managed navigation channels.

In these cases, the federal agency reviews the activity for compliance with the six laws and prepares a "federal consistency determination." The determination describes the activity and whether the

activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is consistent to the maximum extent practicable with the six laws. Ecology has up to 60 days to concur with or object, in writing, with the determination of impact to coastal resources and consistency with the six laws.

Activities which Require Federal Approval

A federal approval is any authorization, certification, approval, license, permit or other form of permission which any federal agency is empowered to issue to an applicant. Examples include U. S. Army Corps of Engineers Section 404 and Section 10 permits. A federal agency cannot provide approval unless Ecology agrees that the project is consistent with the Coastal Program. Unlike activities undertaken by federal agencies, activities requiring federal approval must be entirely compliant not merely consistent, with the six laws.

In these cases, the applicant for federal approval reviews the activity for compliance with the six laws and prepares a "federal consistency certification." The certification describes the activity and whether the activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is compliant with the six laws. In the case of Corps permits, the applicant forwards their certification to the Corps, who then forwards it to Ecology. For all other federal permits, the applicant submits their certification directly to Ecology. Ecology has six months from the receipt of the certification to concur with or deny it.

Activities Which Use Federal Funding

Federal grant or loan applicants who seek funding for all or part of an activity that affects the coastal zone must meet federal consistency requirements. Federal agencies cannot approve grants or loans for activities which are inconsistent with the Coastal Program.

In these cases, the applicant for federal funding reviews the activity for compliance with the six laws and prepares a "federal consistency certification." The certification describes the activity and whether the activity impacts coastal resources. If the activity impacts coastal resources, a statement must be provided that the activity is compliant with the six laws. The applicant submits their certification to Ecology. Ecology has six months from the receipt of the certification to concur with or deny it. The applicant then provides the federal funding agency with Ecology's decision.

Public Involvement

Public involvement provisions for shoreline permits and some Corps permits are provided independently of the consistency process and are deemed adequate for purposes of consistency. For projects not required to provide a public involvement process through shoreline or Corps permits, or for large, complex and controversial projects, Ecology has developed a separate public involvement process. This involves public notice, a 21-day public comment period, and potentially a public meeting or hearing. Notification is sent to interested parties based on the development of general and project-specific mailing lists.

For more information

For more information, review Ecology's Federal Consistency Procedures document, or call the Federal Consistency Coordinator, Shorelands and Environmental Assistance Program, Department of Ecology, PO Box 47690, Olympia, Washington 98504. Telephone (360) 407-6527.

If you would like this document in an alternative format, contact (360) 407-6527.